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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,809

11/12/2003

C. Allen Smith

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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/706,809

Applicant(s)

SMITH ET AL.

Examiner

Elizabeth M. Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-15, 17-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-15, 17-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/16/07 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 9-15, 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Stehling et al, U.S. Patent No. 5,382,631. Stehling discloses polymer blends which may comprise components having a narrow molecular distribution. See abstract. The blend comprises linear ethylene. Suitable components for the blend include plastomer blend components in the density range of about 0.88-0.900 g/cc, very low density polyethylene blends components having a density in the range of 0.900 – 0.915 g/cc and linear, low density polyethylene blend components in the density range of about 0.915 – 0.940 g/cc. Example 5 discloses a composition where one component has a density of 0.884 g/cc and the other has 0.9348 g/cc and the components are present in equal parts. The resulting polymer can be extruded and formed into fibers and formed into nonwoven fabrics. See col. 24. The polymer can be formed into stretch films and therefore it is presumed to be elastic. Further, since the instant composition is identical

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to the claimed composition it would necessarily have the same properties and characteristics. Example 2 discloses a composition where the components are present in amounts of 75 and 25 percent which is within the range in the newly amended claims. Stehling discloses meltspun, (i.e. spunbond) and meltblown fabrics. See col. 23, line 38-col. 24, line 48. Since Stehling teaches ranges of about 0.88-0.900 g/cc, it is reasonable to presume that the densities values include values which are approximately $\pm 10\%$ of the these ranges which encompass the values claimed.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9-15,17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stehling, U.S. Patent NO. 5,382,631 in view of EP 0600482. Stehling discloses a blend as set forth above. Stehling does not specifically describe the particular amounts of each component of the blend. EP '482 teaches a composition comprising a blend of a first ethylene alpha olefin which is present in amount of 50-99 % by weight having a density of 0.87 – 0.92 g/cc and a low density polyethylene with a density of 0.915 – 0.930 g/cc which is present in an amount of 2-50% by weight. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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have employed the components of Stehling in the proportions set forth by EP '482, motivated by the expectation that these amounts were recognized as suitable in the art for forming blends.

6. Applicant's arguments filed 1/16/07 have been fully considered but they are not persuasive. Applicant argues that none of the applied references teach the claimed proportions. However, as set forth above, example 2 of Stehling teaches proportions of 75/25. Therefore the rejection in view of Stehling is maintained. With regard to EP '482, Applicant argues that EP '482 teaches away from materials having the claimed melt index. However, EP '482 is only relied on for the teaching the blends of olefins are known wherein the components are blended in the claimed proportions in order to produce a polymeric blend having the desired properties. Stehling already teaches the particularly claimed components. Therefore, the rejection is maintained.

7. Applicant's amendment has overcome the Land reference since Land teaches maximum amounts of plastomer as being present in no more than 15 weight percent. See col. 4, lines 59-62.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

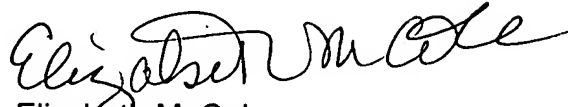
Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

A handwritten signature in black ink, appearing to read "Elizabeth M. Cole". The signature is fluid and cursive, with the first name "Elizabeth" written in a larger, more prominent script than the last name "Cole".

Elizabeth M. Cole
Primary Examiner
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e.m.c